



DEPARTMENT OF THE NAVY
BUREAU OF NAVAL PERSONNEL
5720 INTEGRITY DRIVE
MILLINGTON TN 38055-0000

5720
PERS 00J6/20190250
March 4, 2019

Mr. Michael J. Hoffman
Hunton, Andrews, & Kurth LLP
600 Travis Street
Suite 4200
Houston, TX 77002

Dear Mr. Hoffman:

SUBJECT: YOUR FREEDOM OF INFORMATION ACT (FOIA) REQUEST

This is in response to your Freedom of Information Act (FOIA) request of February 28, 2019. You seek a copy of BUPERSNOTE 1910 of 19JUN73 and BUPERSMAN 3420180 (section 2C) in effect in August 1973. Your request was received in this office (PERS-00J) on March 1, 2019, and has been assigned correspondence number CNPC20190250 by this command.

A search of this command's Records Branch was conducted for BUPERSMAN 3420180. A copy of the responsive BUPERSMAN 3420180 was located. A copy of the responsive documentation is enclosed. A search of this command's Records Branch was conducted for BUPERSNOTE 1910 of 19JUN73. Regretfully, our Records Branch was unable to locate a copy of the responsive documentation.

If you believe an adequate search of this command's records was not conducted, you have the right to appeal this partial "No Records" determination, in writing, to the Office of the Judge Advocate General, OJAG Code 14, 1322 Patterson Avenue SE Suite 3000, Washington Navy Yard, DC 20374-5066.

Should you believe the submission of an appeal necessary, it must be received in that office within 90 calendar days from the date of this letter in order to be considered. Please attach a copy of this letter and the original request. Include a statement regarding why you believe this command may possess records responsive to your request. Please mark both the envelope and your appeal letter "FOIA/PA APPEAL."

No assessable FOIA fees were associated with the processing of your request. I am the official responsible for this partial "No Records" response regarding records maintained by this command. Should you wish to discuss this matter, you may contact the undersigned at (901) 874-3165.

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You can also contact the DON FOIA Public Liaison, Christopher Julka, at Christopher.a.julka@navy.mil or at (703) 697-0031. In addition, the Office of Government Information Services (OGIS) provides a voluntary mediation process for resolving disputes between persons making FOIA requests and the Department of the Navy (DON). Their website is below:
<https://www.archives.gov/ogis/about-ogis/contact-information>.

Sincerely,

A handwritten signature in black ink, appearing to read 'D. P. German', with a long horizontal stroke extending to the right.

D. P. GERMAN
FOIA/PA Officer
By direction

to any inferior rate by sentence of a summary court-martial. Enlisted members of all pay grades may be reduced to any inferior rate by sentence of a special court-martial or a general court-martial.

See Manual of the Judge Advocate General relative to the policy of the Department of the Navy that enlisted members of other than the lowest enlisted pay grade who are sentenced to confinement exceeding three months or to dishonorable or bad conduct discharge should also be sentenced to reduction to the lowest pay grade.

5. Reduction in rate in accordance with the above shall be to a lower pay grade in the path of advancement as specified in the Manual of Qualifications for Advancement, NAVPERS 18068 series. Where a petty officer is reduced to pay grade E-3 or below, it shall be to a rate which is in the appropriate apprenticeship. For example: MM3 reduced to FN or AB3 reduced to AN. If appropriate, a striker identification should be assigned. For similar provisions applicable to the sentences of courts-martial, see Manual of the Judge Advocate General.

3420160 INVESTIGATION OF OFFENSES SUSPECTED OF WOMEN AND INTERROGATION OF WOMEN

1. The commanding officer shall officially designate a woman officer who shall be consulted concerning investigation of offenses suspected of women and concerning contemplated disciplinary action for such offenses.

2. Interrogation of a woman in connection with offenses shall be conducted in the presence of the designated woman officer unless the woman being questioned specifically states in writing to the commanding officer that the woman officer's presence is not desired.

3. If unusual local circumstances render these procedures impracticable, the Chief of Naval Personnel (Pers F) shall be notified promptly of the details.

3420180 ADMINISTRATIVE PROCEDURES FOR PROCESSING ENLISTED PERSONNEL FOR DISCHARGE BY REASON OF UNSUITABILITY

1. Members may be separated by reason of unsuitability with an honorable or general discharge as warranted by their performance marks. A discharge by reason of unsuitability in accordance with the provisions of this article, regardless of the attendant circumstances, shall be effected only when directed by or authorized by the Chief of Naval Personnel.

2. Members may be discharged by reason of unsuitability because of:

a. Alcohol abuse. Failure through inability or refusal to participate in, cooperate in, or complete an alcohol abuse treatment and rehabilitation program.

b. Personal use of drugs other than alcoholic beverages. When evidenced by a urinalysis test administered for identification of drug users or upon volunteering for exemption; and

the member's record indicates lack of potential for continued military service; or

long-term rehabilitation is determined necessary and the member is transferred to a Veterans Administration or civilian medical facility for rehabilitation; or

the member fails through inability or refusal to participate in, cooperate in, or complete a drug abuse treatment and rehabilitation program.

c. Financial irresponsibility.

d. Character and behavior disorders (when such disorders are determined by a medical officer in accordance with the International Classification of Diseases, Adapted, Public Health Service Publication No. 1693). Discharges normally should not be effected for combat exhaustion (307) and other acute situational maladjustments (307) per se, but they may be effected for more basic underlying disorders of which the transient state is a manifestation.

e. Homosexual or other aberrant tendencies.

f. In addition to the above, only commanding officers of naval training centers may process members undergoing recruit training for discharge because of:

(1) Inaptitude which is applicable to those members who are best described as inapt due to lack of general adaptability, want of readiness of skill, unhandiness, or inability to learn.

(2) Apathy, defective attitudes, and inability to expend effort constructively which is a significant observable defect, apparently beyond the control of the member, and elsewhere not readily describable.

3. Processing for discharge by reason of alcohol abuse or financial irresponsibility normally should not be initiated until the member has been given a reasonable opportunity to overcome his deficiencies. When it is determined that a member may come within the purview of these specific categories, the member shall be notified of his deficiencies and shall be counseled in regard thereto. If no improvement is

forthcoming within a reasonable time, the member should be processed in accordance with the provisions of this article.

4. In considering members for administrative processing by reason of character and behavior disorders it should be recognized that a diagnosis of a character and behavior disorder is not in and of itself a sufficient cause for administrative discharge unless the disorder is of such severity as to render the member incapable of serving adequately. In addition, an administrative discharge by reason of unsuitability for a "duly diagnosed" character and behavior disorder will be based upon inadequate adjustment and documented malperformance which persists in spite of a reasonable attempt by the command to assist the member in correcting his deficiencies through leadership, nonmedical counseling, and, when appropriate, disciplinary action. Often the member has not been on active duty sufficient time to adjust to service life or for the adequacy of his functioning to be fairly assessed. Lack of motivation in itself is not disqualifying for further service. Frequent unauthorized absence or other violations of the UCMJ are disciplinary, not medical, problems. When a member is referred for psychiatric evaluation of a possible character and behavior disorder, commanding officers are expected to maintain liaison with the medical authority to ascertain if any particular action of command might assist the member in adjusting emotionally to the naval service. In this connection, medical authorities will be furnished with service records and any other available documentation of the member's performance to assist in their evaluation. It is further expected that medical authorities will request such records prior to the evaluation of self-referral cases. Information concerning such evaluations and the evaluations themselves shall not be transmitted through or by the member concerned or should he be led to believe that separation is or is not recommended or assured.

5. When a member who possesses highly classified information and/or is serving in a rate involving highly classified duties is referred for psychiatric evaluation, such general information shall be emphasized to the psychiatrist. Details of the classified information shall be avoided in the referral or in the evaluation by the psychiatrist. The purpose of this is at least twofold. Many classified positions are stressful because of the necessary verbal, and at times small or separate subgroup, or actual physical isolation. This may contribute to the member's difficulties. With this general information, the psychiatrist should first make a more thorough evaluation with consideration as to the member's being able to function in a less-classified or less-stressful assignment or rate. Secondly, if he is recommended for discharge, an attempt should be made to evaluate his potential for

aggressive acts or possible disclosure or misuse of classified information which he at that time possesses.

6. In each case processed in accordance with this article, the enlisted member shall be informed in writing of the reason(s) he is being considered for discharge (specifically state one or more of the reasons listed above) and shall be afforded an opportunity to make a statement in his own behalf or decline the opportunity in writing. In the event a statement cannot be obtained, an entry of explanation shall be made on the Administrative Remarks, Page 13 of the member's service record, and a copy of the Page 13 forwarded as an enclosure to the letter of transmittal.

7. Recommendations for discharge by reason of unsuitability processed in accordance with the provisions of this article in the case of personnel with less than eight years continuous active duty shall be forwarded with a letter of transmittal similar to the format given in this article and shall contain the following information:

- a. Copy of letter notifying member of reason(s) for administrative processing and of the member's rights.
 - b. The member's signed statement of awareness.
 - c. The member's signed statement in his own behalf or his declination in writing.
 - d. Psychiatric or medical evaluation for unsuitability reasons, except inaptitude, listed in the article.
 - e. Copy of Page 9, Enlisted Performance Record, of the service record.
 - f. Comments and recommendations of the commanding officer.
8. A member with eight or more years of continuous active duty processed in accordance with the provisions of this article shall be afforded an opportunity to request or waive, in writing, any or all of the following privileges: (If held by civil authorities or not on active duty, this may be accomplished by registered mail.)
- a. To have his case heard by an Administrative Discharge Board of not less than three officers.
 - b. To appear in person before such board (unless in civil confinement or otherwise unavailable).
 - c. To be represented by counsel (a lawyer within the meaning of Article 27(b)(1), UCMJ, unless the commanding officer certifies in the permanent record the nonavailability of a lawyer so qualified and sets

forth the qualifications of the substitute nonlawyer counsel).

d. To submit statements in his own behalf.

e. To waive the above rights in writing. Prior to declaring his intentions concerning the above rights, the member shall be given an opportunity to consult with counsel (a lawyer within the meaning of Article 27(b)(1), UCMJ, unless the commanding officer certifies in the permanent record the nonavailability of a lawyer so qualified and sets forth the qualifications of the substitute nonlawyer counsel). If the member waives his rights, include the same information as required above plus a signed copy of the waiver. If the member requests an Administrative Discharge Board, comply with the procedures established for such cases.

9. Enlisted personnel serving at shore activities shall be retained on board pending receipt of instructions from the Chief of Naval Personnel. Enlisted personnel serving on board ships who have been fully processed for discharge by reason of character and behavior disorders, enuresis, or homosexual or other aberrant tendencies may be transferred to the nearest separation activity to await instructions from the Chief of Naval Personnel. The transfer orders and records must accurately reflect the member's status and reason for transfer in order to ensure that the member is held pending receipt of instructions from the Chief of Naval Personnel. In this connection ensure that a copy of the letter of transmittal with all enclosures is inserted in the member's service record. All other personnel recommended for discharge in accordance with this article shall be retained on board pending receipt of instructions from the Chief of Naval Personnel.

10. A letter of transmittal in proper format containing the following information shall be utilized. Minor modifications will be necessary in individual cases.

From:

To: Chief of Naval Personnel

Subj: (rate, name of member, component, SSN); Recommendation for discharge by reason of unsuitability of

Encl: (1) Copy of letter of notification
(2) Statement (name of member)
(3) Signed copy of waiver of privileges (if applicable)
(4) Psychiatric evaluation
(5) Copy of Page 9

1. Pursuant to Article 3420180 of the Bureau of Naval Personnel Manual, the following information is submitted in the case of (name of member):

a. Basic record data: Date of current enlistment: (fill-in) for (fill-in) years; EAOS: (fill-in); marital status: (fill-in); dependents: (fill-in); months on board: (fill-in); age: (fill-in); GCT: (fill-in); AFQT: (fill-in); years education: (fill-in); total service: active, (fill-in), inactive, (fill-in).

b. Diagnosis:

c. Military offenses:

d. Comments and recommendations of Commanding Officer: It is recommended that (name) be separated from the naval service by reason of unsuitability. Further retention in the service would not be in the best interest of the Navy. (The commanding officer's comments should include information with regard to the counseling requirement for cases processed in accordance with this article.)

3420200 ADMINISTRATIVE PROCEDURES CONCERNING DISCHARGE OF ENLISTED PERSONNEL BY REASON OF SECURITY

1. Enlisted personnel may be separated by reason of security with an honorable, general, or undesirable discharge in accordance with SECNAVINST 5521.6 series concerning the administration of the military personnel security program.

3420220 ADMINISTRATIVE PROCEDURES FOR PROCESSING ENLISTED PERSONNEL FOR DISCHARGE BY REASON OF UNFITNESS

1. A member being processed for a discharge for unfitness shall be given an opportunity to have his case heard before an administrative discharge board of at least three officers, one of whom shall be serving in the grade of lieutenant commander or higher, unless such member after consulting with counsel specifically waives this right which shall be witnessed by the member's counsel. The member may elect not to appear personally before the board and have his counsel represent him at the board proceedings.

2. Members may be separated by reason of unfitness with an undesirable discharge or with a more creditable type discharge when it is warranted by the particular circumstances in a given case. A discharge by reason of unfitness, regardless of the attendant circumstances, shall be effected only when directed by or authorized by the Chief of Naval Personnel.

1 Jul 69 - 22 Jun 81

A	B	C	D	E	F
NEW ARTICLE NUMBERS	CHANGE NUMBER/ DATE	NEW TITLE	OLD ARTICLE NUMBER	OLD ARTICLE TITLE	REMARKS
1					
3420120		Deferment of Disciplinary Action When Service Records Are Not Available	C-7811	Deferment of Disciplinary Action When Service Records Are Not Available	
787		Reduction in Rate	C-7211	Reduction in Rate	
788	CH 7/74 18APR74; CH 4/76 19FEB76	Investigation of Offenses Suspected of Woman and Interrogation of Women			
789	CH 7/73 13APR73; CH 1/76 21NOV75; CH 7/80 6AUG80	Administration Procedures for Disposition, Recommendation of Enlisted Personnel Identified as Drug Abusers (Use, Possession, Transfer or Sale)			New
790	CH 1/74 15OCT73; CH 4/76 19FEB76; CH 7/76 19MAY76; CH 10/79 16AUG79; CH 10/80 15DEC80	Administration Discharges	C-10302	Determination of Types of Discharges for Enlisted Personnel	CH 4/76 New
791	CH 1/71 23OCT70; CH 10/73 12JUL73; CH 1/74 15OCT73; CH 7/74 18APR74; CH 10/74 30JUL74; CH 4/76 19FEB76; CH 7/77 11MAY77; CH 10/78 11AUG78; CH 4/80 24MAR80; CH 7/80 6AUG80	Policy Definitions Concerning Separation of Enlisted Personnel	C-10101	Definitions of Terms	
792	CH 4/76 19FEB76; CH 7/76 19MAY76; CH 7/77 11MAY77; CH 7/78 11MAY78	General Provisions and Restrictions Relating to Enlisted Separations	C-10315	General Provisions and Restrictions Relating to Enlisted Separations	CH Article 3840100
793	CH 4/76 19FEB76; CH 7/77 11MAY77	Procedures for Processing Enlisted Personnel for Discharge by Reason of Personal Abuse of Drugs Other Than Alcoholic Beverages			
794	CH 4/76 19FEB76; CH 4/77 23FEB77; CH 7/78 11MAY78; CH 4/79 12FEB79; CH 10/79 16AUG79	Procedures for Processing Enlisted Personnel for Discharge by Reason of Unsuitability	C-10310	Discharge of Enlisted Personnel by Reason of Unsuitability	Article Formerly 3420180
795	CH 4/76 19FEB76; CH 7/77 11MAY77; CH 1/78 14NOV77; CH 7/78 11MAY78; CH 4/79 12FEB79; CH 10/79 16AUG79; CH 4/80 24MAR80; CH 7/80 6AUG80	Procedures for Processing Enlisted Personnel for Discharge by Reason of Misconduct	C-10312	Discharge of Enlisted Personnel by Reason of Misconduct	Article Formerly 3420220 and 3420240
796					

* Sec 3420180